

Appl. No. : 09/879,364
Filed : June 12, 2001

REMARKS

In response to the Office communication mailed September 15, 2004, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 8-28 are now pending. Claims 1-7 were previously canceled, without prejudice or disclaimer, and Claim 8 has been amended to correct a typographical error.

Rejections Under 35 U.S.C. § 112

The Office Action mailed December 16, 2003 rejected previously pending Claims 1-7 under 35 U.S.C. § 112. Applicant respectfully submits that these rejections should be withdrawn because the pending claims do particularly point out and distinctly claim the subject matter of the invention.

In the Office Action, the Examiner stated that in previously pending Claim 1, "it is unclear how the fluid is being forced from said housing towards said first medical implement." (Note: the medical implement that was originally referred to as the "first medical implement" in the previously pending claims is now referred to as the "second medical implement"). As made clear in, for example, currently pending Claim 8, the medical valve includes, among other elements, a passage "including a fluid space which automatically and reversibly increases in size when said first medical implement is connected to said valve and which contracts in size when said first medical implement is disconnected to generate a positive flow of fluid in the direction of said second medical implement" Thus, the subject matter of the claims makes it clear that the fluid is forced in the direction of the second medical implement by the above indicated interactions between the first medical implement and the medical valve.

In the Office Action, the Examiner also stated that in previously pending Claim 5, "it is unclear what applicant regards as a member." Because the currently pending claims do not include the term "member", Applicant believes this ground for rejection is not applicable to the pending claims.

Applicant respectfully submits that the currently pending claims satisfy the requirements of 35 U.S.C. § 112 and that the foregoing rejections should not be applied to the pending claims.

Rejections Under 35 U.S.C. § 102(b) Based On Pfister

The Office Action rejected previously pending Claims 1-7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,334,551, issued to Pfister. These rejections should not be

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applied to pending Claims 8-28 because the Pfister patent fails to disclose all elements of these claims. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must teach every element of the claim).

For example, the Pfister patent says nothing about generating a positive flow of fluid in the direction of the second medical implement upon disconnection of the first medical implement from the medical valve. In the Office Action, the Examiner stated that “fluid remaining in the housing will be forced to the first medical implement by gravity.” Applicant respectfully disagrees.

As noted in Applicant’s specification at paragraph [0007], a problem may arise when medical instruments are disconnected from traditional medical valves.

[0007] A problem arises when the medical implement is disconnected from the valve. When the implement is disconnected, it no longer occupies a portion of the space in the valve. The increase in space within the valve results in the fluid in the valve and line to which the valve is connected moving to fill the space. In effect, the removal of the implement creates a suction force which draws fluid into the valve.

Because of this suction, it is unlikely that gravity alone could force liquid towards the second medical instrument as suggested by the Examiner. Rather, the suction will likely pull the fluid away from the second medical implement.

In addition, another force operating on the fluid in the valve would tend to force the fluid away from the second medical instrument. The second medical instrument is in fluid communication with the vasculature of the patient, and the patient’s blood pressure would also tend to force liquid back into the valve and away from the second medical instrument. Thus, the suction that traditionally occurs with medical valves upon disconnection of the medical implement, coupled with the pressure of the patient’s blood, tends to force fluid flow away from the second medical implement and back into the valve. One of the advantages of Applicant’s invention as presently claimed is the positive fluid flow generated within the valve that forces fluid flow toward the second medical instrument upon disconnection of the first medical implement. The Pfister patent does not address the problem and discloses no means for generating the positive flow generated by Applicant’s invention as recited in the currently pending claims.

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Accordingly, Applicant respectfully submits that the foregoing rejections should not be applied to the pending independent Claims 8, 16, and 22. Additionally, Applicant submits that the foregoing rejections should not be applied to the dependent claims because of their dependency on Claims 8, 16, and 22, and because of the additional features recited therein.

Applicant also requests that the Examiner send a copy of the checked-off version of the prior art submission 1449 form mailed by Applicant on October 9, 2003.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

If any issues require clarification, the Examiner is respectfully requested to call the undersigned attorney to expedite allowance of this application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 10/14/04

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